



*Division of
Personnel*

**SUPERVISOR'S
GUIDE
TO
ATTENDANCE
MANAGEMENT**

Employee Relations Section
Revised: April 2011

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DISCLAIMER

This booklet is intended to be used as a reference and procedural guide to the attendance management process. The general information it contains should not be construed to supercede any law, rule, or policy. In the case of any inconsistencies, the statutory and regulatory provisions shall prevail.

This booklet is written with the understanding that the West Virginia Division of Personnel is not engaged in rendering legal services. If legal advice or assistance is required, the services of an attorney should be sought. Supervisors should also refer to the policies, rules and regulations as well as consult with the human resources office within his or her respective agency.

For technical assistance concerning specific situations, employees and employers may contact the Division of Personnel's Employee Relations Section at (304) 558-3950, extension 57209.

ATTENDANCE MANAGEMENT

Public employers are often faced with complaints that leave provisions afforded their employees are too generous and limit management's ability to control work situations for a desired outcome. However, an agency's attendance standards are self-determined and consist of the values, beliefs, and norms on attendance and absenteeism within the agency. Misunderstanding and inconsistency often occur when attendance standards have not been previously communicated to employees. Unfortunately, many employees and supervisors erroneously believe that annual leave and sick leave are entitlements to be used at the employee's discretion. If excessive absenteeism is permitted, it communicates to staff that a high level of absenteeism is acceptable. The following information is offered to provide guidance to supervisors who desire to maintain an acceptable level of staff attendance. It is the responsibility of each manager to actively address attendance issues in a timely and consistent manner.

DISCUSSION

Questionable or excessive absenteeism can be costly to employers in terms of lost productivity, increased administrative burdens, and lowered employee morale. It may also necessitate work reassignment, cause service delivery delays, increased overtime costs, and a reduction in the quality and quantity of services provided. Absences which are excessive or extreme, and attendance that falls below established acceptable levels, also result in anger, frustration, and resentment on the part of conscientious employees and supervisors who must assume the absent employees' share of the workload.

To identify and correct excessive absenteeism, supervisors need to understand the scope and extent of their authority granted by the agency to deal with the problem. They must know and understand the rules and policies which govern leave usage and disciplinary action. Standards of attendance by which absences are to be judged should be job related and should be communicated to employees prior to their implementation.

Issues confronting managers responsible for maintaining satisfactory levels of attendance include: the difficulty of determining what constitutes excessive absenteeism; consistent leave request approval and denial based on agency standards and work necessity; the consistent application of acceptable minimum staffing levels in approving leave requests; attendance patterns as a factor in the evaluation process; the proper determination of when a physician's/practitioner's statement *is* required, and when it *may be* required; and how to appropriately administer corrective action.

IDENTIFYING MISUSE OF LEAVE

Since attendance is an essential element of every job, an undependable employee is of questionable value to an employer and poor or unacceptable attendance should be dealt with promptly. Supervisors are vested with the responsibility and authority to approve or deny discretionary leave requests based upon the business need and work flow of the unit.

Supervisors who approve discretionary leave (annual leave, personal leave of absence without pay, educational leave and disaster relief leave) cannot reasonably consider such approved absences as a misuse of leave.

While the abuse of any benefit is troublesome, the chronic or recurring misuse of leave, either annual or sick, is particularly bothersome because such absences cannot be planned for and, therefore, directly impact the efficient delivery of State services. The same may be true of **legitimate**, unforeseen absences, but the fact that these absences are typically unexpected and isolated incidents somewhat minimizes any inconvenience because other staff can usually be expected to assist for a legitimate absence. Short notice and frequent absences, including tardiness, however, may constitute an unsatisfactory attendance record because they result in a lack of dependability and poor work ethic that directly impacts the work output of the work/organizational unit and routinely burdens co-workers with unfair additional duties and/or overtime work.

Assessing Absenteeism Rate

To evaluate whether an employee is misusing his or her leave, the employer must determine the number of work hours the employee has been available to work over a certain period of time (usually six months). Available work hours equal total regular scheduled work hours during the period being evaluated **minus** pre-approved annual leave, pre-approved compensatory time off, holidays, overtime, supported sick leave, approved medical and personal leaves of absence without pay, education leave, required military leave, court/jury/hearing leave, approved time off to vote, organ donation leave, approved emergency medical services (EMS)/fireman service leave, and approved disaster service leave **Note: unsupported sick leave, unauthorized leave, and suspensions due to unauthorized leave, leave misuse, and/or absenteeism are included in available work hours.**

Attached to this document is a worksheet to assist supervisors in determining whether an employee is misusing his or her leave (Appendix A). The worksheet helps determine the Absenteeism Rate for the employee's absences. Misuse of leave may be determined to have occurred when the Absenteeism Rate is equal to or greater than 5.0% during a work period of 6 months. When the Absenteeism Rate exceeds 5%, any extenuating circumstances should be considered. If a determination of misuse of leave is made, attendance expectations counseling, leave restrictions or discipline may be appropriate. The worksheet further explains that there are certain types of leave categories which are not included in the Absenteeism Rate calculations. It should be noted that the absenteeism percent, however, is only one of the factors used to determine leave misuse. Other factors to consider include any patterns of leave usage and the credibility of explanations for the absences.

Absences not Typically Included in Absenteeism Rate Calculations

Absences due to illness must be evaluated with full consideration to the circumstances of the absence. The following use of leave should not typically negatively factor into any attendance/leave usage evaluation for the purposes of corrective action or performance evaluation:

- Supported Sick Leave is an absence that is documented with an authorizing and verifying statement from a physician/practitioner that the employee was seen by the physician (but which does not necessarily disclose the nature of the illness or a diagnosis) and the length of the absence. Supported sick leave is generally considered legitimate absences and is not included when tabulating absences to determine leave misuse, unless some fact brings the legitimacy of the absences into question, such as forgery of the statement or activities inconsistent with the statement. Verification of the physician statement should only be sought in limited situations, after discussion with, and permission granted by, the employee.
- Sick leave that is used for a death in the immediate family, as defined by the Division of Personnel (DOP) *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* (2010), is also not typically used when computing unsupported sick leave, provided the leave is limited to three or less days. If verification is desired, the employee may provide a copy of the decedent's obituary article.
- Pre-approved annual leave. An employee must request and obtain approval in advance for annual leave, compensatory time off and holiday leave. If business need precludes granting the leave, then it can and should be denied.
- Approved Family Leave including Family and Medical Leave Act (FMLA) leave which may be paid sick leave (40 hour allotment during the calendar year), paid annual leave or an unpaid leave of absence or, Parental Leave Act (PLA), for which 40 hours of sick leave per calendar year may be used, and medical leaves of absence without pay, including worker's compensation leave for the employee's own illness or injury.
- Discretionary personal leaves of absence and education leave.
- Required military leave.
- Court/jury/hearing leave.
- Organ donation leave.
- Approved disaster service leave.
- Approved EMS/fireman service leave.
- Approved time off to vote.
- Approved compensatory time off and holidays taken on alternative days, as provided in the *Administrative Rule*.

It is important to note that according to law, leave for federal military duty may not be adversely counted against an employee's attendance and performance record and employers may not discriminate against employees who are absent and receiving temporary total disability benefits

due to a work-related, compensable injury or who are performing federal military duty. It should further be noted that Red Cross volunteer disaster leave is discretionary.

Other Factors Considered in Leave Misuse Assessments

In order to identify and correct the misuse of sick and annual leave, supervisors should consider these factors:

- **Number, Frequency and Duration:** Numerous and frequent short-term absences of one or two days duration for which either “emergency” annual leave or sick leave is requested may suggest an attendance problem. “Emergency” annual leave is leave requested and approved the same day of the absence or upon short notice for unforeseen events. Numerous absences of three days or less due to illness which do not ordinarily require a physician’s/practitioner’s statement and are unsupported may also suggest a misuse of leave.
- **Patterns:** A history of one, two, and three day “illnesses” or frequent “emergencies” which occur on the day before or after scheduled or approved days off or which precede or follow holidays may suggest an attendance problem. Such absences evoke suspicion because they extend the number of uninterrupted days the employee is away from the job. A “pattern” of misuse of leave should not solely be based on any arbitrarily set number of missed days or occurrences. Mitigating circumstances regarding absences, if any exist, should be considered on a case-by-case basis.

To more easily identify *patterns* of misuse of leave, the use of color coded calendars are beneficial. Such calendars may also be used as demonstrative evidence to identify attendance versus absences by types of leave in the corrective discipline process or in a grievance proceeding. The supervisor could record each absence duration and type on a calendar page, then color code by the nature of the different absences. Coding could be for pre-approved, versus “emergency” and sick versus annual. Examples of patterns of absences that may represent misuse of leave include, but are not limited to:

1. Hooking – The unplanned call-in absences of short duration which may be linked or “hooked” with scheduled days off, holidays, weekends, or periods of annual leave;
2. Repeated call-in absences on a specific day of each week or calendar date;
3. Call-ins on the day following required overtime worked; (day after payday is always a big one.)
4. Use of leave immediately upon accrual, thus maintaining zero or near zero leave balances;
5. When scheduled for undesirable temporary shifts, assignments, or during periods of peak workload, or during periods when annual leave was prohibited due to business necessity;

6. When expecting notice of unsatisfactory job performance (i.e., following a work incident when expecting or following discipline or a regularly scheduled performance evaluation);
 7. Reporting/Requesting sick leave when annual leave was denied. NOTE OF CAUTION: This could be a legitimate request if the employee requested annual leave for a medical appointment and it was denied; then the employee would have to request medical leave which cannot be denied;
 8. Providing peculiar and increasingly improbable or unacceptable excuses for emergency or sick leave; or,
 9. In any such way that a repetitive use of sick leave or emergency annual leave can be established in relation to an event or occurrence, e.g., the day following a college football games.
- **Excessive Use of Unsupported Sick Leave:** Any absence for which an employee has requested paid sick leave, *regardless of the duration*, that is not substantiated by a physician's/practitioner's statement verifying the legitimacy of the absence is unsupported sick leave. If an employee's unsupported sick leave (generally during a six month period) exceeds a reasonable percentage of the available work time, the supervisor should counsel the employee regarding the current attendance record and agency expectations/standards). If the employee offers no reasonable explanation, the supervisor may consider imposing sick leave restrictions according to subsection 14.5 of the *Administrative Rule*.
 - **Critical Level of Attendance:** There are positions where attendance is a critical function and is properly given greater weight as an essential function of a position. For these positions, a higher standard and faster response to attendance lapses are appropriate. Examples include positions providing direct patient/resident care and essential services in residential and/or correctional facilities which operate on a 24-hour-a-day basis. Work during agency peak periods, such as tax return season or deer hunting season, or any designated periods of mandatory attendance based on business necessity, requires a higher level of attendance.

Though it is reasonable to believe that regular attendance is an essential function of every position; that is not necessarily true (e.g., jobs that can be performed at alternate locations or that are not time-sensitive). When determining whether or not regular attendance is an essential function of a position, consider the following:

1. Do other workers have to cover the employee's work in addition to or at the abandonment of their own duties?
2. Can the work be made up by the absent employee upon his or her return?
3. What are tangible consequences to the employer or customer of not being able to plan for the unscheduled absence?

- **Excessive Use of Sick Leave:** Grievance case law has established that any written policy regarding excessive use of sick leave or excessive absenteeism should be carefully written, communicated to the employee in advance and strictly enforced/applied before being considered legitimate justification as a basis for disciplinary action. Some benchmark grievance decisions regarding sick leave usage are:

- *Coster v. Division of Corrections*, Docket No. 96-CORR-157 (12/11/1996);
- *Lynge v. DHHR/Hopemont State Hospital*, Docket No. 00-HHR-258 (12/15/2000);
- *Harris v. W. Va Regional Jail and Correctional Facility Authority*, Docket No. 92-RJA-039/040/041, (03/19/1993); and,
- *Litchfield v. W. Va. DHHR/Lakin Hospital*, Docket No. 92-HHR-127, (09/10/1993).

The cited cases reinforce that the determination of excessive absenteeism is not necessarily established with a pre-determined number of occasions or days absent. (Complete Appendix A to determine the employee Absenteeism Rate.) A determination of a satisfactory or unsatisfactory level of attendance must be based upon the totality of the circumstances and agency business need. Such determination is at the discretion of the appointing authority and implemented by agency managers and supervisors and is to be based on the essential functions of the specific organizational unit and position. Defining a critical level for **each individual** position, however, is discouraged as it will likely result in discriminatory treatment and/or inconsistent application.

- **Excessive Use of Annual Leave:** In accordance with the Administrative Rule, annual leave is subject to advance approval. Therefore, the misuse of annual leave would occur in only limited situations, such as when the employee has insufficient accrued leave for a requested absence or when the employee does not obtain advance approval. While the employee is responsible for appropriate use of his or her leave benefits, the supervisor also is charged with the responsibility to verify that sufficient annual leave is available prior to approving leave requests. Misuse may also occur, when "**emergency**" annual leave is frequently requested. When "emergency" absences become excessive, ***requests for such leave require closer scrutiny and legitimate documentation to substantiate validity (e.g. accident report or service receipts from a mechanic, repairman, etc.) may be required.*** An employee may be less inclined to fabricate personal emergencies or disasters when the validity of a claim must be documented upon return to duty. Supervisors should always inquire as to the reason for emergency leave or tardiness and emergency annual leave may be denied when business needs require attendance. Uniform and consistent standards which include consideration of the critical level of attendance for the position must be applied when reviewing and denying annual leave requests.
- **Tardiness:** It is an employee's responsibility to be at his or her work station or assigned area ready to begin work promptly at his or her starting time according to the work schedule established by the supervisor. However, an emergency situation beyond the employee's control, which causes an employee to be late, may be excused by the supervisor in

accordance with established agency standards. If an emergency is likely to cause tardiness of more than a previously communicated period of time (e.g., arrival within 30 minutes), the supervisor or designee should be contacted and given the expected time of arrival. Managers and supervisors are responsible for ensuring timely completion of leave slips by the employees unit. Supervisors are also responsible for submittal of leave and attendance records to the individual responsible for maintenance of agency leave records.

The employee may be permitted to utilize annual leave for the absence. However, the minimum charge is 15 minutes so the employee must not begin work until 15 minutes after the start of her or his scheduled start time. If the employee has insufficient accrued and unused leave, he or she can be taken off from the payroll for the period of tardiness (typically processed as a personal leave of absence). If no acceptable reason is provided for the tardiness, the employee's pay can be docked for unauthorized leave. In certain situations, an employee may be required to vacate the office area for the remainder of time between reporting to work late and the completion of a full 15 minute leave charge interval. The employee would be expected to promptly report as directed and to be ready to begin working. If the employee has no accrued annual leave or desires not to use accrued leave and is not on leave restriction, he or she may be allowed to schedule adjust and make up the time by staying late or coming in early within the same workweek. Except in mitigating circumstances, if the employee is on leave restriction his or her pay should be docked for unauthorized leave and appropriate disciplinary action may be taken. If tardiness has become a pattern for the employee, his or her leave usage should be reviewed and the employee should be advised that future incidents may result in his or her pay being docked for unauthorized leave and appropriate disciplinary action may be taken.

- **Return at Less Than Full Duty:** An employee may be permitted to return to work at less than full duty from sick leave or a medical or personal leave of absence (for medical reasons) without pay; however, there may be times when doing so would impair the ability of an organization to operate in a safe and effective manner. Accordingly, any return at less than full duty must be coordinated in compliance with subdivision 14.4(h) of the *Administrative Rule*.
- **Reasonable Accommodation:** Although reasonable accommodations must be made for qualified individuals according to the provisions of the *Americans With Disabilities Act (ADA)*, the agency reserves the right to determine the tasks that constitute the essential functions of an employee's position and what changes, if any, should be made in order to make a **reasonable** accommodation. Reasonable accommodations must be considered in consultation with the employee as an interactive process. Accommodations may involve additional time off, paid or unpaid. Paid time off as an ADA accommodation must be designated as sick leave or annual leave as there is no separate category for "ADA" leave.

CONSIDERING ATTENDANCE WHEN EVALUATING PERFORMANCE

The established Employee Performance Appraisal process for State agencies requires assessment of an employee's Availability for Work, including reliability and dependability. Excessive leave usage should be considered when evaluating an employee's performance and deficiencies should be reported to the employee and reflected in his or her score. When leave is used for other than its intended purpose, employees must be made aware of this issue not only during performance appraisal, but on a continuous basis throughout the year. However, keep in mind the information above regarding leave use not typically considered when evaluating performance.

PHYSICIAN'S/PRACTITIONER'S STATEMENT

The physician's or practitioner's statement requirement is to establish the legitimacy of an employee's need for and duration of absence due to illness/injury. Submittal of the statement is required under certain defined conditions and may be required by agency management when warranted by an employee's attendance pattern.

A written statement of verification of incapacity by a physician or practitioner is required when:

- An employee is absent **for more than three (3)** consecutive work days and requests paid sick leave (for the employee's or an immediate family member's illness).
- An employee is absent for more than three (3) consecutive work days and requests paid annual leave if the annual leave was used for medical reasons in lieu of sick leave or upon the exhaustion of paid sick leave for the employee's own illness or for the illness of a family member.
- If an employee's unsupported sick leave usage is determined to be excessive, the employee may be required in the future to provide verification by a physician/practitioner of an illness of **three days or less**, or for medical/dental appointments according to subsection 14.5 of the *Administrative Rule*. Such action may be taken for a specified period of time when the employee appears to be misusing sick leave and the employee has been previously counseled and placed on written notice that verification is being required. Requirements should be spelled out in a written improvement plan and provided to the employee, as discussed below.

DELAYED PAYROLL ASSIGNMENT

All employees hired or reinstated after July 1, 2002, are placed on delayed payroll upon employment. Thus, for employees hired or reinstated after that date, this section does not apply.

In specified cases, part of a disciplinary or corrective attendance action is to place employees in a delayed payroll status. This action would result in the employee's hours worked being processed for payment at the end of the pay period but payment would not be received until the following pay period. For example, the employee's pay for the first half of the month would be paid on the

last day of the month, one pay period in arrears. This is an efficient method to prevent a recurring problem of an employee's check being deposited back to the State fund due to insufficient accrued leave or unauthorized leave to cover absences. However, because the employee's first paycheck after being placed on delayed payroll is not received for one month, the employee must be given written notice at least one pay period in advance. There is no agency discretion; placement in delayed payroll status is permanent.

If the employee voluntarily requests such status, the appointing authority may place an employee on delayed payroll status as a result of a medical or personal situation resulting in a balance of less than 40 hours of accrued annual and/or sick leave. Once again, there is no agency discretion or option available to the employee to be placed back on current payroll.

In accordance with DOP's Delayed Payroll Assignment Policy, DOP-P14, when an employee has had two occurrences of unauthorized leave or leaves of absence within a six-month period, the appointing authority shall place an employee on delayed payroll status.

Refer to the Delayed Payroll Assignment Policy for specific information about the criteria and process that must be followed. The policy, in its entirety, may be viewed and downloaded at DOP's web site at: www.state.wv.us/admin/personnel/emprel/POLICIES/Delayed.pdf.

CORRECTIVE MEASURES

Supervisors should use informal or less severe progressive discipline steps prior to formal disciplinary action when addressing unacceptable attendance patterns. Individualized instruction by a supervisor should explain/clarify the agency's attendance standards and policy, if applicable, where the policy may be located, specific expectations, consequences for failure to meet the expectations, and a specific time when attendance will again be evaluated. Such positive (non punitive) approaches should be included as an initial part of any comprehensive plan to correct attendance deficiencies. Formal disciplinary action should only be considered after other corrective measures, such as education/coaching, sanctions, reprimands, and improvement plans, have been attempted. Progressive discipline steps may be found in the "Supervisor's Guide to Discipline," at the Employee Relations Section's web page at www.state.wv.us/admin/personnel/emprel/default.htm. The employee's attendance should be monitored and reassessed on a two-to-three month basis to determine the effectiveness of any corrective action plan that has been implemented. Supervisors may use the form at the end of this document (Appendix) in the calculation of the absenteeism rate which should generally not exceed 5%.

It is not prudent to develop agency policies that are written so restrictively as to remove an agency's discretion in determining what constitutes misuse of leave. Furthermore, agencies should not establish inflexible penalties requiring discipline for certain numbers of missed days or occurrences due to the many factors that must be considered in a fair evaluation, including federal law. NOTE: In accordance with the *Administrative Rule*, agency supplemental attendance policies must be reviewed and approved by the Director of the Division of Personnel.

COORDINATION WITH STATUTES AND ADMINISTRATIVE RULE

Nothing in agency-specific procedures shall enhance or diminish the provisions of any federal or State law or any properly promulgated DOP rule. Corrective measures must be coordinated and taken in accordance with federal and State laws, including the ADA, FMLA, W. Va. Workers' Compensation statute, W. Va. Human Rights Act, and relevant sections of the DOP Administrative Rules. Any absence due to illness or injury, whether work-related or not, may entitle the employee to the protections of any one or more of the following federal/State laws and the DOP Administrative Rules:

Americans with Disabilities Act: The ADA is a federal non-discrimination statute designed to remove barriers that prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities. Where an individual's disability impedes job performance, an employer must make reasonable accommodations to help the individual overcome the particular impediment, unless doing so would impose an undue hardship. However, the employee must be able to perform the essential functions of the position with or without accommodation. Appropriate accommodations must be determined through an open dialogue with the employee and may involve consideration of proposed accommodations related to attendance standards for the position.

Family and Medical Leave Act: The FMLA entitles eligible employees to take up to 12 weeks of unpaid, job protected leave in a 12-month period, for specified family and medical reasons including any “qualifying exigency” arising out of the active duty or call to active duty status of a spouse, son, daughter or parent. Further, the FMLA allows employees to take up to 26 weeks of unpaid leave in each 12-month period to care for family members who suffered a serious injury or illness while on active military duty.

W. Va. Parental Leave Act: In 1989 the Legislature enacted “The Parental Leave Act,” codified as W. VA. CODE §21-5D-1 *et seq.*, to provide employees with unpaid time away from work (after exhausting annual and personal leave) without risk of employment loss. The *Parental Leave Act* provides that an employee shall be entitled to up to a total of 12 weeks during any 12-month period of unpaid Family Leave, for the birth of a child of the employee; the adoption of a child; or to care for the employee’s child, spouse, parent or dependent who has a serious health condition, after exhausting annual and personal leave. Since it is without pay, sick leave and annual leave should not be an issue unless the employee decides to use paid leave under FMLA.

If an employee is eligible for leave under FMLA, the Parental Leave Act, and/or the various leave benefits provided in the DOP Administrative Rules, the employee is entitled to the greatest benefit or most generous rights afforded under the different parts of each law or the Administrative Rules. The determination of the most generous benefit is at the employee’s discretion.

In 2010, DOP promulgated the *Family and Medical Leave Act / Parental Leave Act* policy (DOP-P23) to achieve consistency among agencies regarding administration of leave. The policy established standards for the calculation method to be used and for the substitution of paid leave

for qualifying absences. Refer to the DOP *Reference Guide to Federal Family and Medical Leave & West Virginia Parental Leave*, for further guidance. This guide and other guidance material may be viewed and downloaded at the DOP's web site at:

www.state.wv.us/admin/personnel/emprel/toolbox/default.htm

W. Va. Workers' Compensation Act: State law, at W. VA. CODE §23- 5A-3, provides that an employer shall not terminate an injured employee while the injured employee is off work due to a compensable injury and is **receiving or is eligible to receive** Temporary Total Disability (TTD) benefits unless the injured employee has committed a separate, dischargeable offense. A separate dischargeable offense means misconduct by the injured employee that is wholly unrelated to the injury or to the absence from work resulting from the injury.

W. Va. Human Rights Act: This State statute, codified at W. VA. CODE §5-11-1 *et seq.*, prohibits disability discrimination and is similar to the federal ADA. The definition of disability under both Acts is identical. This Act also prohibits discrimination against an employee due to a disability which results in the employee using protected leave.

COORDINATION WITH AGENCY PERSONNEL AND PAYROLL STAFF

Agency payrolls are being processed for the next pay period on the day after pay day. Therefore, timely monitoring and reporting of leave records and deficiencies are important. It is the responsibility of all managers and supervisors to monitor leave balances of all employees under their supervision prior to approving leave. They should immediately communicate to the agency human resources/payroll office, as appropriate, any situation where an employee is absent without approved leave or without sufficient accumulated leave to cover the absence. Additionally, the determination of any potential disciplinary situation requiring pay adjustment, (i.e., unauthorized leave, suspension, or dismissal) needs to be promptly reported to and coordinated with the agency human resources office.

**RELEVANT SECTIONS
of the
ADMINISTRATIVE RULE**

DISCLAIMER

These subsections cited below do not represent the entire Division of Personnel *Administrative Rule*, W. VA. CODE R. §143-1-1, *et seq.*, as the Rule is subject to change. It is suggested that relevant subsections/subdivisions be downloaded and provided to the employee. The Rule is located at:

www.state.wv.us/admin/personnel/rules/default.htm

Specific questions should be directed to the Division of Personnel's Employee Relations Section, at 304-558-3950, extension 57209.

Relevant sub-sections of W. VA. CODE R. §143-1-1, *et seq.* (2010) are referenced below:

Annual Leave

- Subsection 3.6. Definition - Annual Leave
- Subdivision 14.3(c). Requesting, Granting
- Subdivision 14.3(h). When Sick Leave Exhausted

Sick Leave

- Subsection 3.86 Definition - Sick Leave
- Subsection 3.43. Definition - Immediate Family
- Subdivision 14.4(f). Granting

Physician's Statement

- Subdivision 14.4(g). Physician's Statement

Return at Less Than Full Duty

- Subdivision 14.4(h). Return At Less Than Full Duty

Suspected Misuse of Leave

- Subsection 14.5. Suspected Misuse of Leave

Unauthorized Leave

- Subsection 14.6 - Unauthorized Leave

Leaves of Absence Without Pay

- Subsection 14.8. Leave of Absence Without Pay

Military Leave

- Subsection 14.9. Military Leave

Court, Jury, and Hearing Leave

Subsection 14.10. Court, Jury, and Hearing Leave

Education Leave

Subsection 14.11. Education Leave

Other DOP Rules relating to attendance:

Leave Donation Program Rule, W. VA. CODE R. §143-2-1, *et seq.* (1996)

Workers' Compensation Temporary Total Disability, W. VA. CODE R. §143-3-1, *et seq.* (2007).

Organ Donation Program, W. VA. CODE R. §143-5-1, *et seq.* (2007).

S A M P L E L E T T E R S

DISCLAIMER

The following sample letters are not all inclusive and do not represent all possible options for managing attendance. They are intended to be used only as guides and will require modification to suit specific situations and to conform to agency policies.

Requests for technical assistance may be directed to the West Virginia Division of Personnel, Employee Relations Section at (304) 558-3950, extension 57209.

S A M P L E
Notice of Leave Exhaustion

[A similar notice will be necessary when family sick leave is exhausted and the employee will need unpaid leave under FMLA and the Parental Leave Act. If the situation is not medical in nature then the employee should be notified of his/her right to request personal leave of absence without pay and provided the appropriate form.]

The purpose of this letter is to provide written notice that your accrued sick and annual leave **[has been exhausted as of (date) – OR – will be exhausted on (date)]** should you not return to work. You will be paid for **[# days and/or hours]** of combined sick and annual leave on your [date] payroll check.

The correct procedure for requesting and being granted a leave of absence without pay and the required documentation for such leave is located at section 14 of the *Administrative Rule* of the Division of Personnel, W. VA. CODE R. §143-1-1 *et seq.* (**[YEAR]**).

In addition to a copy of Section 14 of the Administrative Rule, I have enclosed the following prescribed forms for your completion *[insert the forms used by your agency which are either the DOP prescribed forms or the forms your agency's prescribed forms has chosen which have been approved by the DOP]*:

- Certification of Health Care Provider for Employee's Serious Health Condition (DOP-L5)
- Application for Leave of Absence for FMLA [paid or unpaid], PLA, and/or Medical Leave Without Pay (Form DOP-L4)

OR

- **[Name of Agency Forms - Approved by DOP]**

Both you and your physician/practitioner are required to complete documentation if it is your intention to request a medical leave of absence without pay. Your written request must be made on the prescribed DOP-L4 form and must be received within 15 calendar days following expiration of all leave (on or before **[date]**). Such leave will not be considered if you fail to apply within the time limits specified. Any unpaid leave granted under the provisions of Section 14 of the *Administrative Rule* will count against and run concurrently with any entitlement you may have under the federal Family and Medical Leave Act (FMLA). A Notice of Eligibility and Rights and Responsibilities (Form DOP-L9) under FMLA is enclosed.

Also enclosed is an Application to Receive Donated Leave *[If applicable]*. For more information, you may wish to visit the Division of Personnel's website at www.state.wv.us/admin/personnel/.

During your period of absence, it is imperative that you contact **[name and title]** at **[telephone number]** concerning any requirements that may be necessary for you to maintain your health and/or life insurance. If you have any questions or need additional information, please contact **[name and title]** at **[telephone number]**.

Sincerely,

[Appropriate Signature Authority]

Enclosures

c: Agency Personnel File

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20_____.

[signature]_____

[typed name and title]

S A M P L E
Approval of Medical Leave of Absence Without Pay

The purpose of this letter is to acknowledge receipt of your physician's statement (Form DOP-L5) and your request for a medical leave of absence dated **[date]** that you submitted to **[name and title]**. Our records indicate that you were granted a medical leave of absence without pay from your position as **[classification]** from **[date]** through **[date]**.

In accordance with the West Virginia Division of Personnel *Administrative Rule*, W. VA. CODE R. §143-1-14.8 (**[YEAR]**), an employee is entitled to a medical leave of absence without pay not to exceed six (6) months within a twelve month period provided:

- a. The employee (1) has exhausted all sick leave and makes application no later than fifteen (15) calendar days following the expiration of all sick leave or (2) has elected not to use sick leave for a personal injury received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. VA. CODE §23-4-1 and makes application no later than fifteen (15) calendar days following the date on which the employee filed a claim for Worker's Compensation;
- b. The employee's absence is due to an illness or injury which is verified by a physician/practitioner on the prescribed physician's statement form stating that the employee is unable to perform his or her duties and giving a date for the employee's return to work or the date the employee's medical condition will be re-evaluated;
- c. A prescribed physician's statement form is submitted each time the employee's condition is re-evaluated to confirm the necessity for continued leave; and,
- d. The disability, as verified by a physician/practitioner on the prescribed physician's statement form, is not of such nature as to render the employee permanently unable to perform his or her duties.

Your request for a medical leave of absence for the period beginning **[date and time]** through **[date and time]** has been approved. You are expected to return to duty on **[date]** at your regularly scheduled work time of **[time]**. Although the federal Family and Medical Leave Act (FMLA) provides for up to twelve (12) weeks of unpaid leave for an employee's own serious health condition, the *Administrative Rule* provides a more generous medical leave benefit of up to six (6) months and therefore, exhausts any entitlement provisions of this federal law. Any unpaid leave granted under the provisions of 14.8(c) will count against and run concurrently with any entitlement you may have under FMLA. An FMLA Designation Notice (Form DOP-L10) is enclosed.

For your information, subsection 14.8(d) of the *Administrative Rule*, which sets forth an employee's responsibility at the end of a leave of absence without pay, is enclosed with this letter.

During your period of absence, it is imperative that you contact **[name and title]** at **[telephone number]** concerning any requirements that may be necessary for you to maintain your health and/or life insurance. If you have any questions or need additional information, please contact **[name and title]** at **[telephone number]**.

Sincerely,

[Appropriate Signature Authority]

Enclosures

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20____.

[signature] _____
[typed name and title]

S A M P L E

Unauthorized Leave

The purpose of this letter is to notify you that your absence beginning at [time] on [day], [date] through [time] on [day], [date] is being charged as unauthorized leave. Secondly, this letter serves as a written reprimand for failing to appropriately request and receive approval for paid leave and for failing to follow the established procedure for calling in to report an unscheduled absence. It is important for you to understand that taking unauthorized leave is misconduct for which this action is being taken and any further incidents of misuse of leave or other inappropriate conduct will result in more severe disciplinary action up to and including dismissal.

Approval was granted to you for annual leave for [day], [date] through [day], [date] and you were scheduled to return to work on [day], [date], but failed to do so. [day], [date] you called and reported you were having transportation problems; therefore, you were granted an additional eight (8) hours of emergency annual leave for that day. You were expected to return to work on [day], [date], however, you did not report for work until [time and day], [date].

You not only failed to return to work on [date], as expected, but also failed to report to work on [date(s)], and did not contact your supervisor on any of these days to request additional time off or to explain your absence. It is your responsibility to keep your supervisor informed of any emergency which prevents you from being at work as scheduled. Failure to do so is absence without authorization for approved leave and will result in your pay being docked.

[Include details regarding previous counseling, warnings, suspensions, etc., related to the same offense.]

According to the *Administrative Rule* of the West Virginia Division of Personnel, W. VA. CODE R. §143-1-1 *et seq.* ([YEAR]), **Subsection 14.6 - Unauthorized Leave:**

[Insert current Subsection 14.6 here]

In accordance with the *Rule*, your paycheck will therefore be docked for twenty-four (24) hours in the pay period beginning [date]. Since you are eligible to accrue leave only while in a paid status, both your annual and sick leave accrual rates for the month of [date], will be prorated and reduced accordingly. **NOTE:** You are hereby warned that in accordance with the Division of Personnel's *Delayed Payroll Assignment Policy* (DOP-P14), two unauthorized leaves shall result in mandatory permanent placement on the delayed payroll where paychecks are issued a full pay period after the end of the pay period wherein the work was performed.

[Insert relevant details regarding call-in procedure, requesting in advance, etc.]

If your [Specify issue] is the result of medical and/or personal problems, I suggest you may want to contact the physician/practitioner, or the counseling service of your choice; however, whether you do so is not my concern. Rather, I am concerned that you report for duty as scheduled and observe established rules. You may also obtain information on the State of West

Virginia's Employee Referral Program by contacting the Division of Personnel at (304) 558-3950, extension 57204, or by visiting the web site at: www.state.wv.us/admin/personnel/classes/erp/refbook.pdf.

For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. You must also file a copy of the grievance with the Public Employees Grievance Board at 1596 Kanawha Boulevard, East, Charleston, West Virginia, 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the PEG Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

Please sign one copy of this letter indicating your receipt of this notice of the pay dock and written reprimand, and return to me. Your signature does not indicate agreement or disagreement with the contents; it only verifies that you have received this letter. A copy will also be placed in your confidential agency Personnel File.

Sincerely,

[Appropriate Signature Authority]

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If the employer meets with the employee and hand delivers the letter, the employer may request that the employee verify receipt by signing the following acknowledgment typed at the bottom of the letter.]*

By signing below, I have acknowledged that I am in receipt of this letter.

[Employee's signature]

Date

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20_____.

[signature] _____
[typed name and title]

S A M P L E
Written Reprimand and Leave Restriction

The purpose of this letter is to emphasize the seriousness of your attendance record (absenteeism) with the **[name of agency]** and to reprimand you for failing to meet acceptable attendance standards. Further, you are hereby warned of additional disciplinary action if your attendance does not improve. Because your absences from work are occurring so frequently, your attendance cannot be relied on and your services with the **[Department/Division Name]** are of greatly reduced value. Attendance at work is an essential element of your position and the employment relationship.

To illustrate your failure to report for work as scheduled, I have summarized below your sick **[and emergency annual if appropriate]** leave usage for the period **[date]** through **[date]**. *(NOTE: at least a six month period is recommended).*

Total Hrs.	Avail. Work Hrs.	SL Used	SL as % of Avail. Work Hrs.
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[Available work hours equal total scheduled work hours in the month minus pre-approved annual leave, pre-approved compensatory time off, and holiday leave, overtime work hours, supported sick leave, approved medical and personal leaves of absence without pay, including Worker's Compensation leave of absence, education leave, required military leave, court/jury/hearing leave; approved organ donation leave; approved disaster service leave; and holidays taken on alternative days, as provided in the Administrative Rule. Note: unsupported sick leave, unauthorized leave, and suspensions, if attendance-related, are included in available work hours.]

From **[date]** through **[date]**, you have been absent from work without prior authorization on **[insert number of]** occasions during this **[insert number of]** working day period. Of additional importance is the fact that **[insert number of hours]** of the annual leave hours, although paid, were not properly requested in advance according to agency and West Virginia Division of Personnel attendance and leave rules. I believe this demonstrates your continued unwillingness to adhere to established rules concerning prior request of leave. Of no less importance is the fact that **[insert number of]** of your **[insert number of]** absences occurred in conjunction with scheduled days off, weekends, and/or holidays.

[Include details regarding previous counseling, warnings, suspensions, etc. Also, include information regarding previous failure to follow procedure when requesting leave such as not calling in correctly or submitting leave request forms in a timely manner.]

No element of employment is more basic than the right of the employer to expect employees to report for work as scheduled and to comply with established procedures for requesting and reporting absences. Your record of frequent absences has placed an undue hardship on this **[section/unit]** as well as on your co-workers who must assume your assigned duties during your absences *[use only if this is a true statement]*. Your frequent absences also interfere with your

supervisor's ability to appropriately staff the section/unit based on work flow. Further, your lack of dependability compromises my ability to assign you important projects. Regardless of the reason(s) for an employee's absence, when absence occurs so frequently that an employee's presence cannot be counted on, the employee's value to the employer is reduced proportionally. For this reason, effective immediately upon receipt of this letter, I am requiring you to present a completed form DOP-L3, Physician's/Practitioner's Statement (enclosed) for all sick leave usage, including family sick leave and annual leave used upon the exhaustion of sick leave. Failure to present the certificate within two days of your return to work will result in your pay being docked for the entire period of absence.

So there is no misunderstanding concerning my authority to require this additional documentation, I refer you to subsection 14.5, *Suspected Misuse of Leave*, of the West Virginia Division of Personnel *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* (year), which is quoted below and *[insert agency name and policy, if applicable]*:

[Insert current Subsection 14.5 here]

[If applicable, insert agency policy excerpt]

Additionally, I remind you that annual leave must be requested in advance. Based on your attendance record, it is necessary to impose a restriction on the usage of your annual leave. Effective immediately, no annual leave will be approved unless it is requested by you at least forty-eight (48) calendar hours in advance of when it is to be taken. If an emergency occurs, contact me personally by telephone, and I will consider the situation on its merits. Tardiness and unscheduled absences for which you present no physician's certificate and are not deemed to be an emergency by me, will be charged as unauthorized leave for which your pay will be docked in the next pay period. **NOTE:** You are hereby warned that in accordance with the Division of Personnel's *Delayed Payroll Assignment Policy* (DOP-P14), two unauthorized leaves shall result in mandatory permanent placement on the delayed payroll where paychecks are issued a full pay period after the end of the pay period wherein the work was performed.

You are reminded that your work schedule is **[insert times]**, **[day]** through **[day]** and your scheduled meal period is from **[insert time]** to **[insert time]**. Any deviation from this schedule requires my advance approval. So there is no misunderstanding, I am again directing that you report any unscheduled absences or tardiness to me personally, by telephone, no later than forty-five minutes after the start of your scheduled workday. In my absence, you are to personally report by telephone, such absences or tardiness to **[Identify person – suggest it be next person up the chain of command]**. You are specifically directed not to leave a voice mail, electronic mail, or other message in lieu of speaking with me, or in my absence, **[insert name]**. Upon return to work you are to immediately submit an application for the unscheduled leave to your supervisor for review.

The restrictions outlined in this letter will continue in effect **[insert time frame – at least 3 months but no more than 6 months recommended]** to allow you time to demonstrate an acceptable level of attendance and the ability to meet established standards. At the end of the **[# of months]** period, I will review your attendance record to determine if a lifting of the

restrictions, in whole or in part, is merited. Failure to show improvement or any further incidents of leave misuse will be viewed as an unwillingness to meet the required standards of work and will result in progressive disciplinary measures.

The State of West Virginia and its agencies have reason to expect their employees to observe a standard of conduct that will not reflect discredit on the abilities and integrity of their employees, or create suspicion with reference to their employees' capability in discharging their duties and responsibilities. I believe the nature of your misconduct is sufficient to cause me to conclude that you did not meet a reasonable standard of conduct as an employee of **[Agency/Department Name]**, thus warranting this written reprimand.

If your **[Specify issue]** is the result of medical and/or personal problems, I suggest you may want to contact the physician/practitioner, or the counseling service of your choice; however, whether you do so is not my concern. Rather, I am concerned that you report for duty as scheduled and observe established rules. You may also obtain information on the State of West Virginia's Employee Referral Program by contacting the Division of Personnel at (304) 558-3950, extension 57204, or by visiting the web site at: www.state.wv.us/admin/personnel/classes/erp/refbook.pdf.

You may respond to me, in person and/or in writing, concerning the contents of this letter, provided you do so within eight (8) calendar days of its date. For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. As provided in the statute, you may proceed to Level Three of the procedure by filing your grievance directly with the Public Employees Grievance Board upon the agreement of the chief administrator or when dismissed, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. You must provide copies of your grievance accordingly to the Public Employees Grievance Board at 1596 Kanawha Boulevard, East, Charleston, West Virginia, 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

I would like to confirm my receptiveness to any reasonable suggestion as to how I might assist you during this improvement period. I sincerely hope you will correct your **[Specify issue]**. Please be advised that this letter is intended to serve as a formal warning in that regard. I assure you it is my intention to maintain the integrity of our standard of conduct which provides the **[Agency/Department Name]** and its employees with a means to ensure its efficient and effective operation. Accordingly, I must inform you that you are expected to fulfill your responsibilities as a dependable and conscientious employee. Continued **[Specify issue]** could result in further disciplinary action up to and including dismissal.

Please sign one copy of this letter indicating your receipt of this written warning, and return to me. Your signature does not indicate agreement or disagreement with the contents; it only verifies that you received this letter. A copy will be placed in your confidential agency Personnel File.

Sincerely,

[Appropriate Signature Authority]

Enclosure

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If the employer meets with the employee and hand delivers the letter, the employer may request that the employee verify receipt by signing the following acknowledgment typed at the bottom of the letter.]*

By signing below, I have acknowledged that I am in receipt of this letter.

[Employee's signature]

Date

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20____.

[signature]_____

[typed name and title]

S A M P L E
Notice of Potential Delayed Payroll Assignment

According to the enclosed West Virginia Division of Personnel policy, *Delayed Payroll Assignment* (DOP-P14), an employee shall be placed on a delayed payroll when he or she has:

1. Insufficient accrued leave to cover two (2) separate absence incidents during the preceding six (6) months, or
2. Two (2) occurrences of unauthorized leave resulting in an employee's pay being docked.

According to agency payroll records, you were absent from work on **[date]**, without sufficient accrued leave to cover the absence. Although you requested and were granted leave of absence on this occasion, your pay check had to be returned to the agency, deposited into its account and a new check for the correct amount of wages had to be reissued made payable to you.

So that you may understand the reason for this notice, I recount the following details regarding your absences and the number of hours your pay was docked:

[date] - You reported an absence from work for the entire eight (8) hour day due to personal illness; however, your accrued sick leave balance was only six (6.0) hours and you had no accumulated annual leave to use upon the exhaustion of sick leave. You were paid the six (6.0) hours of sick leave and your pay was docked for the remaining two (2.0) hours.

OR

[date] - You reported an absence from work for the entire eight (8) hour day due to automobile trouble; however, your accrued annual leave balance was only two and one-half (2.5) hours. You were paid two and one-half (2.5) hours of annual leave and your pay was docked for the remaining five and one-half (5.5) hours.

Should you again be absent from work without sufficient accrued leave (sick or annual) within the six-month period beginning **[date]**, you are hereby notified that you will be placed on a delayed payroll according to the *Delayed Payroll Assignment* policy. If you are placed on delayed payroll, you will not receive a pay check until the end of the pay period following the effective date you are placed on delayed payroll. The result of which is a delay of one full month before you receive your next paycheck. Additionally, if you are placed on delayed payroll status, you will remain on delayed payroll for the remainder of your employment with this agency.

If you require clarification or desire to speak with me regarding this matter, please let me know.

Please sign one copy of this letter indicating your receipt of this notice of the pay dock and written reprimand, and return to me. Your signature does not indicate agreement or disagreement with the contents; it only verifies that you have received this letter. A copy will also be placed in your confidential agency Personnel File.

Sincerely,

[Appropriate Signature Authority]

Enclosures **[Enclose Policy and Form]**

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If the employer meets with the employee and hand delivers the letter, the employer may request that the employee verify receipt by signing the following acknowledgment typed at the bottom of the letter.]*

Receipt acknowledged by:

Employee Signature

Date

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20_____.

[signature]_____

[typed name and title]

S A M P L E
Notice of Delayed Payroll Assignment

The purpose of this letter is to advise you that effective **[date]** (**must give one full pay period notice**) you will be permanently placed in a delayed payroll status for having been absent without sufficient accrued leave to cover the absences on two occasions during the preceding six months. This personnel action is in accordance with the enclosed West Virginia Division of Personnel policy, *Delayed Payroll Assignment* (DOP-P14). In addition, enclosed you will find the Notice of Assignment of Delayed Payroll form.

By letter dated **[date]**, you were notified that you were absent without sufficient accrued leave to cover the **[#]** hour absence which resulted in your pay check having to be re-deposited and reissued in the correct amount. You were also advised in that letter that should you be absent from work without sufficient accrued leave to cover any future absence within the following six-month period, you would be placed on a delayed payroll. Our records indicate that you were again absent due to **[reason]** on **[date]**, for **[#]** hours; however, your combined sick and annual leave balance was only **[#]** hours. Your paycheck was again re-deposited in order to dock your pay for the two hours shortage of accumulated leave.

Placing you on a delayed payroll enables us to pay you only for hours actually worked in any given pay period, preventing any future re-deposits of your paycheck due to insufficient accrued leave. This will result in your paycheck being delayed for one full pay period. In other words, instead of receiving a pay check on **[date]** for hours worked from **[date]** through **[date]**, you will receive payment for hours worked in the first **[or second]** half of **[month]** on **[date]**. Additionally, according to Personnel's policy, you will remain on a delayed payroll for the remainder of your term of employment with this agency.

You may respond to this notice in writing provided you do so within five (5) working days. Any reply will be placed in your personnel file. For any grievance appeal rights you may have, please refer to W. VA. CODE '6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. You must also file a copy of the grievance with the Public Employees Grievance Board at 1596 Kanawha Boulevard, East, Charleston, WV 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

Please sign one copy of this letter indicating your receipt of this notice of the pay dock and written reprimand, and return to me. Your signature does not indicate agreement or disagreement with the contents; it only verifies that you have received this letter. A copy will also be placed in your confidential agency Personnel File.

Sincerely,

[Appropriate Signature Authority]

Enclosures **[Enclose Policy and Form]**

c: Agency Personnel File

OPTIONAL LANGUAGE *[If the employer meets with the employee and hand delivers the letter, the employer may request that the employee verify receipt by signing the following acknowledgment typed at the bottom of the letter.]*

Receipt acknowledged by:

[employee's signature]

Date: _____

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20____.

[signature]_____

[typed name and title]

S A M P L E
Continuous Absence – Exhaustion of Paid Leave - No Communication

[Agencies may consider dealing with the situation in stages. First a formal notice of the requirement for a written request for leave of absence. Then a letter could be sent regarding non-compliance and dismissal.]

The purpose of this letter is to address your continuous absence from work since **[date]**, clarify your current employment status, and communicate my expectations and the consequences for your failure to meet these expectations. ***[Insert language expressing your concern for the employee's well being, long tenure of a valued employee, previous good work record, etc.]***

You have been continuously absent from work since **[date]**. Since you have exhausted your accrued leave and have not requested a leave of absence without pay, it is necessary that I place you on unauthorized leave in accordance with subsection 14.6 of the Division of Personnel's *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* (**[YEAR]**). If you request a leave of absence without pay within fifteen (15) calendar days following the date of this letter and provide appropriate medical substantiation, the unauthorized leave will be rescinded and you will be placed on a medical leave of absence without pay.

The following is a chronology of events surrounding your continuous absence:

[Summarize the events regarding the agency's and the employee's absence reporting history for this continuous absence, i.e., e-mail communications, written correspondence, telephone calls to the employee's home, the employee's response or lack of, etc. Give some brief history of any other related accommodations, e.g. reduced or altered workload as an attempt to assist the employee in return to duty.]

Although you were instructed to return to work on **[date]**, to date, I have had no further contact with you and I have not received medical certification of any incapacity or a request from you for a medical leave of absence without pay. The correct procedure for requesting and being granted a leave of absence without pay and the required documentation for such leave is located at Section 14 of the *Administrative Rule*, and a copy is enclosed for your review.

In addition to a copy of Section 14 of the *Administrative Rule*, I have enclosed the following prescribed forms for your completion ***[insert the forms used by your agency which are either the DOP prescribed forms or the forms your agency's prescribed forms has chosen which have been approved by the DOP – if you have reason to believe the employee needs FMLA leave include form DOP-L9]:***

- Certification of Health Care Provider for Employee's Serious Health Condition (DOP-L5)
- Application for Leave of Absence for FMLA [paid or unpaid], PLA, and/or Medical Leave Without Pay (Form DOP-L4)

OR

- **[Name of Agency Forms - Approved by DOP]**

Both you and your physician/practitioner are required to complete documentation if it is your intention to request a medical leave of absence without pay. You are a valued employee ***[If untrue, do not say.]***; however, as it is our mission to provide timely services to the public, I am obligated to ensure the overall efficiency of the agency by maintaining a full work force. Your failure to report for work on **[date]**, as scheduled, absent any information that documents a serious illness, and your failure to maintain appropriate and timely communication with your supervisor compromises my ability to effectively plan schedule and assign work, which directly impacts the mission of the agency.

I have been very tolerant of your situation and have attempted to assist you; however, I cannot tolerate your failure to report for work as scheduled or to adhere to the procedures for requesting a medical leave of absence without pay. You are therefore directed to either return to work on **[date]** at **[time]** and report to me prior to beginning work, with a physician's statement certifying your period of incapacity and any limitations/restrictions on your ability to work, if applicable, or to request a leave of absence without pay according to the *Administrative Rule* no later than **[date, 15 days from the date of this letter]**.

[NOTE TO SUPERVISOR (not part of letter): If there has been previous communication with the employee and he or she has been made aware of requirement to submit documentation, it is suggested that this letter be modified to be a dismissal letter, without providing an opportunity to return.]

Should you fail to follow this directive, I will conclude you have abandoned your position and in such case, this letter will serve as 15 day notice of your dismissal from your position as a **[classification]** effective, **[date, 15 days from date of letter.]**.

This personnel action shall be taken in accordance with the *Administrative Rule*, and provides for a fifteen (15) calendar day notice period. You will also be paid for all annual leave accrued and unused as of your last working day. Whereas you would be dismissed for job abandonment you would be ineligible for severance pay.

In such case, all property belonging to the State of West Virginia, which you have under your control or possession, should be returned either by mail to **[name and address]** or directly to **[name and title]** by close of business on **[date]** at a mutually agreed upon time and location. Such property shall include, but not be limited to: keys to any State offices, access cards, and identification cards and any other items of value such as cameras, computers, other information technology equipment, and State vehicles. You are not to enter the non-public areas of the **[Agency/Department Name]** offices without prior authorization from me or an agent of my office.

You may respond to the matters of this letter, either in writing or in person, provided you do so within fifteen (15) calendar days of the date of this letter. Please contact my office at **[telephone number]** if you wish to schedule an appointment. Further, if you have reason to

believe the information contained in this letter is inaccurate, then you may respond in writing, provided your response is postmarked within fifteen (15) calendar days of the date of this letter.

Since failure to comply with the provisions of this letter will result in a dismissal, if such personnel action occurs, you have a right to grieve this dismissal through the West Virginia Public Employees Grievance Procedure, contained in W. VA. CODE §6C-2-1 *et seq.* If you choose to file a grievance, you must do so, on the prescribed form, within fifteen (15) working days of the effective date of the action. As dismissals may be appealed directly to the Public Employees Grievance Board at Level III, you may file with the Board, at 1596 Kanawha Boulevard, East, Charleston, West Virginia, 25311. If you file directly to the Board, you must also provide copies of your grievance to **[Agency Copy – Name & Address]**, and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. If you wish, however, you may file your grievance with **[Name & Address of Chief Administrator]** at Level I, with a copy to the Director of the Division of Personnel and the Board. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

You may be eligible to continue your Public Employees Insurance Agency (PEIA) insurance benefits for three (3) months after the end of the month in which you are removed from the payroll, at no added cost to you. See W. VA. CODE §5-16-13(c). Additionally, under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), you may be eligible for up to eighteen (18) months of continued health coverage; therefore, you may wish to contact your payroll office or PEIA, at (304) 558-7850, or 1-888-680-7342, for specific eligibility, coverage and premium information.

Sincerely,

[Appropriate Signature Authority]

Enclosures: Section 14, DOP *Administrative Rule*
DOP L-2, DOP L-3 Leave Request Forms **[OR agency forms]**

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to **[name]** by first-class and certified mail, return receipt requested, on the _____ day of _____, 20_____.

[signature] _____
[typed name and title]

S A M P L E
**Exhaustion of Medical Leave of Absence Without Pay and Denial of (continued) Personal
Leave of Absence Without Pay**

In accordance with subsection 14.8 of the Division of Personnel's *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* ([YEAR]), Leave of Absence Without Pay, you are entitled to a medical leave of absence without pay not to exceed six (6) months within a twelve month period. Additionally, you could request a personal leave of absence without pay; however, approval of a personal leave of absence is at the discretion of the appointing authority. Our records indicate that you were granted a medical leave of absence from your position as [classification], from [date] to [date]. Upon exhaustion of the six (6) months of medical leave of absence to which you were entitled, you requested and were granted a personal leave of absence without pay for medical reasons on [date] for the period of [date] to [date].

On [date] you requested an extension of your personal leave of absence from [date] to [date]. I must inform you that I cannot grant any type of additional leave of absence to you. Therefore, you are directed to return to work no later than **[date 15 calendar days from date of letter]**, immediately providing Form DOP-L3 (enclosed), completed by your physician, and releasing you to return to full, unrestricted duty. Should you fail to follow this directive, I must conclude that you have abandoned your position and in such event, this letter will serve as a 15-day notice of your dismissal from your position as a [classification] effective, **[date 15 calendar days from date of letter]**, in accordance with subsection 12.2 of the *Administrative Rule*.

This personnel action shall be taken in accordance with the *Administrative Rule*, and provides for a fifteen (15) calendar day notice period. You will also be paid for all annual leave accrued and unused as of your last working day. Whereas you would be dismissed for job abandonment you would be ineligible for severance pay.

In such case, all property belonging to the State of West Virginia, which you have under your control or possession, should be returned either by mail to **[name and address]** or directly to **[name and title]** by close of business on [date].at a mutually agreed upon date, time, and location. Such property shall include, but not be limited to: keys to any State offices, access cards, identification cards and any other items of value such as cameras, computers, State vehicles, etc. Further, you are not to enter the non-public areas of the **[Agency/Department Name]** offices without prior authorization from me or an agent of my office.

For your information, Subsection 14.8 (d) of the *Administrative Rule*, which sets forth an employee's responsibility at the end of a leave of absence without pay, is enclosed with this letter.

You may respond to this letter either in writing or in person, provided you do so within fifteen (15) calendar days of the date of this letter. Please contact my office at **[insert telephone number]** if you wish to schedule an appointment. Further, if you have reason to believe the information contained in this letter is inaccurate, then you may respond in writing, provided your response is postmarked within fifteen (15) calendar days of the date of this letter.

According to the provisions of W. VA. CODE §5-16-13(c), you may be eligible to continue insurance coverage for up to three months following your dismissal. Additionally, after expiring any coverage granted by State law, the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 U.S.C. Sec. 1162, may provide for an additional period of coverage. You should contact the Public Employees Insurance Agency (PEIA), at (304) 558-7850 or 1-888-680-7342, for specific information concerning eligibility, coverage, and premium payment.

For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. You may proceed directly to Level Three, upon the agreement of the chief administrator, or when dismissed, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. You must also file a copy of the grievance with the Public Employees Grievance Board at 808 Greenbrier Street, Charleston, West Virginia, 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

Sincerely,

[Appropriate Signature Authority]

Enclosures

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20____.

[signature] _____
[typed name and title]

S A M P L E
Failure to Return to Work at the End of a Leave of Absence Without Pay

The purpose of this letter is to inform you of my decision to dismiss you from your position as a **[classification]** with the **[Agency/Department Name]**. This personnel action will be effective **[date - 15 calendar days from date of letter]** which provides a fifteen (15) calendar day notice in accordance with subsection 12.2 of the Division of Personnel's *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* (**[YEAR]**). The reason for this dismissal is your failure to return to work on **[date]**, at the expiration of your leave of absence without pay. Since I consider you to have abandoned your position, you are not eligible for severance pay according to the provisions of W. VA. CODE §29-6-10(12).

According to our records, your last working day was **[date]**. After exhausting all sick and annual leave, you requested and were granted a medical leave of absence without pay from **[date to date]** for a period of six months.

On **[date]** you requested an extension to your leave of absence without pay and were granted an additional **[# of days]** personal leave of absence without pay for medical reasons. By letter from **[name]** dated **[date of letter]**, you were advised that such unpaid leave would expire on **[date]** and would not be extended beyond that date. **[Name and title]** also requested you to contact **[him or her]** within ten (10) calendar days of the date of **[his or her]** letter to advise **[him or her]** of your intentions regarding returning to work and continuing employment. Whereas you have not contacted **[name]**, I must conclude you have abandoned your position and as such this letter will serve as 15 day notice of your dismissal from your position as a **[classification]** effective, **[date, 15 days from date of letter.]**.

All property belonging to the State of West Virginia, which you have under your control or possession, should be returned either by mail to **[name, title, and address]** or directly to **[name and title]** by close of business on **[date]** at a mutually agreed upon date, time, and location. Such property shall include, but not be limited to: keys to any State offices, access cards, and identification cards and any other items of value such as cameras, computers, State vehicle, computers, and any printers for the telework situations. You are not to enter the non-public areas of the **[Agency/Department Name]** offices without prior authorization from me or an agent of my office.

In your most recent physician's statement dated **[date]**, Dr. **[name]** stated **[quote doctor's language regarding the employee's inability to return to work]**. Your continuous absence for **[time period]**, coupled with my inability to employ another staff member during your absence because **[.....list any unique skills or training, etc.]** has negatively impacted the operation of the facility **[list how...best reason - if safety or security related]** and our ability to provide adequate services to our clients. For this reason, I believe I must dismiss you from your position.

For your information, subdivision 14.8(d) of the Division of Personnel's *Administrative Rule* is attached.

You may respond to the contents of this letter, either in writing or in person, provided you do so within fifteen (15) calendar days of the date of this letter. Please contact my office at **[telephone number]** if you wish to schedule an appointment. Further, if you have reason to believe the information contained in this letter is inaccurate, then you may respond in writing, provided your response is postmarked within fifteen (15) calendar days of the date of this letter.

According to the provisions of W. VA. CODE §5-16-13(c), you may be eligible to continue insurance coverage for up to three months following your dismissal. Additionally, after expiring any coverage granted by this State law, the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 U.S.C. Sec. 1162, may provide for you to purchase an additional period of coverage. You should contact the Public Employees Insurance Agency (PEIA), at (304) 558-7850 or 1-888-680-7342, for specific information concerning eligibility, coverage, and premium payment.

For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. You may proceed directly to Level Three, upon the agreement of the chief administrator, or when dismissed, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. You must also file a copy of the grievance with the Public Employees Grievance Board at 808 Greenbrier Street, Charleston, West Virginia, 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

Sincerely,

[Appropriate Signature Authority]

Attachment

c: Agency Personnel File
West Virginia Division of Personnel

OPTIONAL LANGUAGE *[If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]*

The undersigned certifies that the above letter / notification was mailed to [name] by first-class and certified mail, return receipt requested, on the _____ day of _____, 20_____.

[signature] _____
[typed name and title]

S A M P L E
Denial of Medical Leave of Absence due to Permanent Disability

[Employers should consider all available reasonable accommodations prior to dismissing an employee under these circumstances.]

The purpose of this letter is to determine your intentions regarding your employment as a [classification] with the [Agency/Department Name]. You have been continuously absent from work since [date], and had sufficient sick leave and annual leave used in lieu of sick leave for you to remain on the payroll through [# of] hours on [date]. After expiring all accrued paid leave, you were granted a medical leave of absence without pay commencing on [date] through [date].

In accordance with subsection 14.8 of the Division of Personnel's *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq.* ([YEAR]), Leave of Absence Without Pay, you are entitled to a medical leave of absence without pay not to exceed six (6) months within a twelve month period. Additionally, you may request a personal leave of absence without pay; however, approval of a personal leave of absence is at the discretion of the appointing authority.

On [date], I received information provided by your physician that indicates that your disability will permanently prevent you from performing your duties as a [classification]. *[Include information regarding unsuccessful interactive dialogue with the employee in trying to provide a reasonable accommodation.]* In accordance with subsection 14.8(c) of the *Administrative Rule*, we cannot approve a medical leave of absence without pay under those circumstances. Furthermore, a discretionary personal leave of absence will not be approved due to [reasons – e.g., agency work need, financial reasons, etc.].

Therefore, if you do not return to work and present evidence that you may resume full duty with or without accommodation by [Date - provide at least 10 calendar days from date of letter], I will conclude that you have abandoned your position. In such case, this letter will serve as a fifteen calendar (15) day notification of your dismissal from the [Agency/Department Name], effective [Date – 15 calendar days from the date of the letter].

This personnel action shall be taken in accordance with the *Administrative Rule*, and provides for a fifteen (15) calendar day notice period. You will also be paid for all annual leave accrued and unused as of your last working day. Whereas you would be dismissed for job abandonment you would be ineligible for severance pay.

Should such occur, all property belonging to the State of West Virginia, which you have under your control or in your personal possession, must be returned and delivered to the control of [Name & Title], immediately or at a mutually agreed upon date, time, and location. Such property shall include, but not be limited to: keys to any State offices, access cards, and identification cards. You are not to enter the non-public areas of the [Agency/Department Name] offices without prior authorization from me or an agent of my office.

Though the personnel transaction would be processed as a dismissal, you will be eligible for reinstatement as a former State employee. However, you must apply for a posted position for which you meet the minimum qualifications, be able to perform the essential functions of such position with or without accommodation and be selected as the most suitable candidate through the competitive interviewing process. Further, you may wish to have your name added to Division of Personnel registers for classifications for which you are qualified so that you will be contacted should your name be submitted to an agency on a list of eligibles for a vacant position. Information regarding the online application process and a listing of available positions may be found on the Division of Personnel's website at: www.state.wv.us/admin/personnel/default.htm.

You may respond to me, in person and/or in writing, concerning the contents of this letter, provided you do so within fifteen (15) calendar days of its date. Please contact my office at **[insert telephone number]** if you wish to schedule an appointment. Further, if you have reason to believe the information contained in this letter is inaccurate, then you may respond in writing, provided your response is postmarked within fifteen (15) calendar days of the date of this letter.

According to the provisions of W. VA. CODE §5-16-13(c), you may be eligible to continue insurance coverage for up to three months following your dismissal. Additionally, after expiring any coverage granted by State law, the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 U.S.C. Sec. 1162, may provide for an additional period of coverage. You should contact the Public Employees Insurance Agency (PEIA), at (304) 558-7850 or 1-888-680-7342, for specific information concerning eligibility, coverage, and premium payment.

For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the *West Virginia Public Employees Grievance Procedure*. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[Name & Address of Chief Administrator]** at Level One of the Procedure. You may proceed directly to Level Three, upon the agreement of the chief administrator, or when dismissed, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. You must also file a copy of the grievance with the Public Employees Grievance Board at 808 Greenbrier Street, Charleston, West Virginia, 25311; **[Agency Copy - Name & Address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure as well as grievance forms are available at the Board's web site at: <http://pegboard.state.wv.us/> or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

Sincerely,

[Appropriate Signature Authority]

c: Agency Personnel File
West Virginia Division of Personnel
[OPTIONAL MAIL VERIFICATION LANGUAGE]

ABSENTEEISM EVALUATION ASSESSMENT FORM

EMPLOYEE NAME: _____

ABSENTEEISM EVALUATION REVIEW PERIOD: _____ to _____
(At least six month period is recommended.)

A. GATHER DATA NECESSARY TO CALCULATE ABSENTEEISM RATE.

STEP 1. Using a calendar, tabulate the TOTAL NUMBER OF SCHEDULED WORK HOURS during the specified work period. Based on the employee's normal work schedule for the period (not to exceed 40 hours per week), the number of hours (excluding any overtime hours of work) the employee **was scheduled** to work in the period specified above based upon the established standard work week for the agency. Do not include Holiday hours if the employee was not scheduled to work.

TOTAL NUMBER OF SCHEDULED WORK HOURS: #1 _____

STEP 2. During the work period specified above, using leave slips, work reports and payroll records on file, allocate all of the employee's hours of absence to the following categories of leave:

HOURS ABSENT Column A	HOURS ABSENT Column B	CATEGORY OF LEAVE USAGE *Explanation of Supported and Unsupported
		Annual Leave
		Unsupported (Emergency) Annual Leave
		Annual Leave When Sick Leave Exhausted – Supported
		Annual Leave When Sick Leave Exhausted – Unsupported
		Leave Without Pay due to insufficient accumulated Annual Leave – When Sick Leave is Exhausted – Supported
		Leave Without Pay due to insufficient accumulated Annual Leave – When Sick Leave is Exhausted – Unsupported
		Leave Without Pay due to insufficient accumulated Annual Leave when used for personal reasons unrelated to health
		Leave Without Pay due to insufficient accumulated Sick Leave – Supported
		Leave Without Pay due to insufficient accumulated Sick Leave – Unsupported
		Pre-approved Use of Accumulated Compensatory and Holiday Leave
		Sick Leave (Including Family Sick Leave) – Supported
		Sick Leave (Including Family Sick Leave) – Unsupported
		Sick Leave for Death in the Immediate Family
		Approved Leave of Absence (Personal, Medical, & Workers' Compensation)

		Unauthorized Leave
		Suspension due to unauthorized leave, leave misuse, or absenteeism
		Suspension when the cause is unrelated to attendance
		Authorized Education Leave
		Approved Organ Donation Leave, EMS/Fireman, and/or Disaster Service Leave
		Military Leave
		Court, Jury and Hearing Leave and pre-approved Time Off to Vote
#2		ADD HOURS IN COLUMN A –AGENCY APPROVED/DIRECTED ABSENCES
	#4	ADD HOURS IN COLUMN B – QUESTIONABLE/UNACCEPTABLE ABSENCES

B. CALCULATION OF ABSENTEEISM RATE TO EVALUATE ATTENDANCE:

PART 1.

Total Number Scheduled Working Hours (#1) minus Total Hours Approved/Directed Absences (#2) equals Hours Available for Work (#3)

$$\#1 \underline{\hspace{2cm}} - \#2 \underline{\hspace{2cm}} = \#3 \underline{\hspace{2cm}}$$

PART 2.

Total Hours Questionable/Unacceptable Absences (#4) divided by Hours Available for Work (#3) equals

Absenteeism Rate

$$\#4 \underline{\hspace{2cm}} \div \#3 \underline{\hspace{2cm}} = \underline{\hspace{2cm}}\%$$

ABSENTEEISM RATE %

Misuse of Leave may be determined to have occurred when the Absenteeism Rate is equal to or greater than 5.0% during a work period of 6 months. When the Absenteeism Rate exceeds 5%, any extenuating circumstances should be considered. If a determination of Misuse of Leave is made, attendance expectations counseling, leave restrictions or discipline may be appropriate.

Completed By: Date:

***EXPLANATION OF SUPPORTED AND UNSUPPORTED
FOR PURPOSES OF THIS CALCUATION:**

Supported Sick Leave or Supported Annual Leave when Sick Leave is Exhausted is any absence from work granted to an employee when used for an appropriate reason which **IS** documented by proper authority such as a Physician's or Practitioner's statement specifying that the employee or the family member that necessitated the absence was treated and/or incapacitated and the exact period of the employee's absence from work that was necessary, justified, and/or appropriate. Sick Leave for Death in the Immediate Family should be considered Supported Sick Leave when the death and qualifying relationship is confirmed. Documentation of emergency annual leave may be such verification as a police accident report or other documentation verifying the reason and time of the absence and necessity for the employee's presence.

Unsupported Sick Leave or Unsupported Annual Leave when Sick Leave is Exhausted is any absence from work granted to an employee which is **NOT** documented by a Physician's or Practitioner's statement specifying that the employee or the family member that necessitated the absence was treated and/or incapacitated and the full period of the employee's absence from work was necessary, justified, and/or appropriate. For example, Unsupported Annual Leave could include emergency leave due to a vehicle break down or accident without any written verification of corrective measures taken.